

Rule 9013-1

MOTION PRACTICE; REQUEST FOR EMERGENCY HEARING; REQUEST FOR INJUNCTIVE RELIEF

(a) **Motions.** A motion filed with the Court shall request only one form of relief unless the request seeks alternative forms of relief under the same provision of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure (e.g., motion to dismiss or convert; motion for relief from stay, or in the alternative, adequate protection; motion to enforce automatic stay and for sanctions).

(b) **Motions May Be Considered by the Court Without a Hearing.** As contemplated in 11 U.S.C. § 102(1), the Court may consider certain types of motions without a hearing. Under Local Rule 2002-4, the Court has published a list of the types of motions that may be served using negative notice procedures (the “Negative Notice List”). The Court has also published a list of the types of motions (generally administrative in nature) that may be considered without a hearing (the “Accompanying Orders List”). The Accompanying Orders List indicates whether the Court will prepare an order on the motion or whether the order is to be submitted by the moving party. However, the Court, in its discretion, may choose to set a motion for hearing even if it is included on the Negative Notice List or the Accompanying Orders List. The Negative Notice List and the Accompanying Orders List are posted on The Source webpage of the Court’s website, www.flmb.uscourts.gov.

(c) **Written Opposition to Motions.**

(1) **Motions Served Using Negative Notice Procedures.** If a motion is served using the negative notice procedures of Local Rule 2002-4, a party opposing the relief requested shall file written opposition within the notice period set forth in the motion plus three days for mailing.

(2) **Motions Set for Hearing.** If a motion is set for hearing, a party opposing the relief requested in the motion should file written opposition no later than seven days prior to the date of the hearing. If the hearing is set on less than 21 days’ notice, written opposition should be filed no later than 48 hours prior to the hearing. However, in all cases, the Court in its discretion may consider an objection to the requested relief in the absence of a filed written objection.

(d) **Request for Emergency Hearings.** If a motion requests an emergency hearing, the first page or title of the motion shall include the words “Emergency Hearing Requested” or the equivalent. Emergency hearings shall only be held where direct, immediate, and substantial harm will occur to the interest of an entity in property, to the bankruptcy estate, or to the debtor’s ability to reorganize if the parties are not able to obtain an immediate resolution of any dispute. An emergency motion will not be acted upon or set for an emergency hearing without completion and filing of a Certification of Necessity of Request for Emergency Hearing in the form available on the Court’s website, www.flmb.uscourts.gov, setting forth sufficient facts

justifying the need for an emergency hearing. In addition, the filer shall also alert the Clerk's office that an emergency paper has been filed by completing and submitting the "Emergency Matters – Electronic Case Filing" form on the Court's website at www.flmb.uscourts.gov.

(e) ***Request for Expedited Consideration.*** If a motion requests expedited consideration, the first page of the motion shall include the words "Request for Expedited Consideration" or the equivalent.

(f) ***Injunctive Relief.*** If a motion contains a request for injunctive relief pursuant to Fed. R. Bankr. P. 7065, the title of the pleading shall include the words "Injunctive Relief Sought" or the equivalent.

Notes of Advisory Committee

2019

This new rule replaces former Local Rule 9013-1 Proof of Service, which has been renumbered as Local Rule 9013-3. Sections (a) and (d) of this new rule were previously included in Local Rule 9004-1. Section (b) refers parties to the Negative Notice List and the Accompanying Orders List which specify the types of matters that may be considered by the Court without a hearing. Section (c) proscribes deadlines for filing written opposition to motions. This new rule is effective July 1, 2019.